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June 22, 2004

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VIA HAND DELIVERY

JUN 22 2004

Marlene H. Dortch, Esq., Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Attention: Chief, Audio Division, Media Bureau

Re: Amendment of Section 73.202(b), Table of Allotments,
FM Broadcast Stations, Channel 252C3, Dallas, Oregon
Reply Comments in Support of Proposed Rulemaking
MB Docket No. 04-124, RM-10939

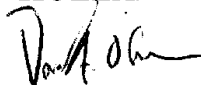
Dear Ms. Dortch:

Transmitted herewith, on behalf of Lifetime Ministries, Inc., are an original and four (4) copies of its Reply Comments in support of its proposed rulemaking in the above-captioned proceeding.

An extra copy of the filing is enclosed. Please date-stamp the extra copy and return it to the courier. Should you have any questions, please contact the undersigned.

Respectfully submitted,

HOLLAND & KNIGHT LLP



David A. O'Connor
Counsel for Lifetime Ministries, Inc.

Enclosure

cc: Rolanda F. Smith, Audio Division

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Dallas, Oregon)

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MB Docket No. 04-124
RM-10939

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JUN 22 2004

To: Secretary, FCC
Attn: Chief, Audio Division, Media Bureau

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS

Lifetime Ministries, Inc. ("Lifetime"), by its counsel, hereby replies to the opposition filed by Radio Beam, LLC ("Radio Beam") in this proceeding. Radio Beam offers two arguments why FM Channel 252C3 at Dallas, Oregon should not be reserved for noncommercial educational ("NCE") use. As explained below, neither argument has any merit and the Commission should adopt an Order in this proceeding reserving Channel 252C3 for NCE use at Dallas, Oregon.

First, Radio Beam alleges that Lifetime's reservation showing failed to consider an AM station, KOAC(AM), Corvallis, Oregon, and that this failure was somehow defective. However, nothing in the Commission's *Second Report and Order*¹ requires a petitioner to consider AM stations when making reservation showings. Such an approach makes sense, since AM stations do not operate on "reserved" channels in specific communities based on a Table of Allotments.² Moreover, licensees of noncommercial AM stations may change from commercial status to

¹ *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, MM Docket No. 95-31, *Second Report and Order*, FCC 03-44, 18 FCC Rcd 6691 (rel. Apr. 10, 2003) ("*Second Report and Order*").

² Indeed, the Commission specifically declined to reserve AM spectrum space for exclusive noncommercial use. See *Clear Channel Broadcasting in the AM Broadcast Band*, Further Notice of Proposed Rule Making, 70 FCC 2d 1077, para. 144 (1979).

noncommercial status at any time, simply by filing a license modification application. *See* 47 C.F.R. § 1690(c)(9). There is, in short, no guarantee that KOAC(AM) will continue to be a noncommercial station, and therefore the Commission should not take it into consideration when determining whether to reserve a commercial FM allotment for NCE use.

Radio Beam's second argument is equally meritless. Radio Beam suggests that Lifetime's reservation showing should have considered KLVU(FM)'s noncommercial operations on the unreserved channel 296 at Sweet Home, Oregon. However, while it is true that KLVU is operating on a noncommercial basis, the FCC's Table of Allotments still lists channel 296 as a non-reserved allotment,³ and no rule making has been adopted to reserve channel 296 for NCE use. The *Second Report and Order* is clear that reservation showings must only examine "reserved band channel[s]." ⁴ Therefore, Lifetime was not, and is not, required to take channel 296 into consideration because it is not a reserved NCE channel.

Furthermore, KLVU's licensee is free to file an application with the FCC requesting that KLVU's designation be changed back to commercial format. *See* 47 C.F.R. § 1690(c)(9). Such a change would not require a rulemaking proceeding but a mere license modification. Thus, neither the Commission nor Lifetime has any way of knowing how channel 296 will be operated in future. In light of KLVU's uncertain status as a noncommercial station, channel 296 should not be treated as an NCE channel for purposes of this rulemaking proceeding.

Because Lifetime was not required to consider either KOAC(AM) or KLVU(FM) in its Petition, the technical portions of Lifetime's November 21, 2003 petition remain valid. Lifetime and the other petitioners have demonstrated the strong need for a reserved NCE allotment in Dallas, Oregon, and it has been established that the proposed reservation complies with

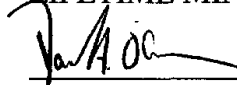
³ *See* 47 C.F.R. § 73.202(b).

⁴ *Second Report and Order*, para. 35.

Commission rules and policies. Radio Beam's opposition should therefore be denied, and the Commission should reserve channel 252C3 for NCE use at Dallas, Oregon.

Respectfully submitted,

LIFETIME MINISTRIES, INC.



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Its Attorney

June 22, 2004

CERTIFICATE OF SERVICE

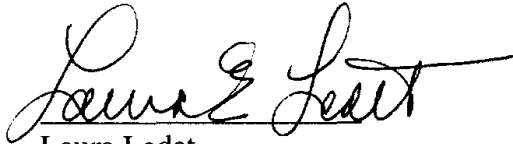
I, Laura Ledet, an employee of Holland & Knight LLP, hereby certify that on June 22, 2004, I caused a copy of the foregoing "Reply Comments" to be sent, via first-class mail, to the following individuals:

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